

600B.41A Actions to overcome paternity — applicability — conditions.

1. Paternity which is legally established may be overcome as provided in [this section](#) if subsequent blood or genetic testing indicates that the previously established father of a child is not the biological father of the child. Unless otherwise provided in [this section](#), [this section](#) applies to the overcoming of paternity which has been established by one of the methods enumerated in [section 252A.3](#), [subsection 10](#), or by operation of law due to the established father's marriage to the mother at the time of conception, birth, or at any time during the period between conception and birth of the child.

2. [This section](#) does not apply to any of the following:

a. A paternity determination made in or by another state or foreign country as defined in [chapter 252K](#) or a paternity determination which has been made in or by that jurisdiction and registered in this state in accordance with [section 252A.18](#) or [chapter 252K](#).

b. A paternity determination based upon a court or administrative order if the order was entered based upon blood or genetic test results which demonstrate that the alleged father was not excluded and that the probability of the alleged father's paternity was ninety-five percent or higher, unless the tests were conducted prior to July 1, 1992.

3. Establishment of paternity may be overcome under [this section](#) if all of the following conditions are met:

a. The action to overcome paternity is filed with the court prior to the child reaching majority.

(1) A petition to overcome paternity may be filed only by the mother of the child, the established father of the child, the child, or the legal representative of any of these parties.

(2) If paternity was established by court or administrative order, a petition to overcome paternity shall be filed in the county in which the order is filed.

(3) In all other determinations of paternity, a petition to overcome paternity shall be filed in an appropriate county in accordance with the rules of civil procedure.

b. The petition contains, at a minimum, all of the following:

(1) The legal name, age, and domicile, if any, of the child.

(2) The names, residences, and domicile of the following:

(a) Living parents of the child.

(b) Guardian of the child.

(c) Custodian of the child.

(d) Guardian ad litem of the child.

(e) Petitioner.

(f) Person standing in the place of the parents of the child.

(3) A plain statement that the petitioner believes that the established father is not the biological father of the child, any reasons for this belief, and that the petitioner wishes to have the paternity determination set aside.

(4) A plain statement explaining why the petitioner does not know any of the information required under subparagraphs (1) and (2).

c. Notice of the action to overcome paternity is served on any parent of the child not initiating the action and any assignee of the support obligation, in accordance with the rules of civil procedure and in accordance with the following:

(1) If enforcement services are being provided by child support services pursuant to [chapter 252B](#), notice shall also be served on child support services.

(2) The responding party shall have twenty days from the date of the service of the notice to file a written response with the court.

d. A guardian ad litem is appointed for the child.

e. Blood or genetic testing is conducted in accordance with [section 600B.41](#) or [chapter 252F](#).

(1) Unless otherwise specified pursuant to [subsection 2 or 10](#), blood or genetic testing shall be conducted in an action to overcome the establishment of paternity.

(2) Unless otherwise specified in [this section](#), [section 600B.41](#) applies to blood or genetic tests conducted as the result of an action brought to overcome paternity.

(3) The court may order additional testing to be conducted by the expert or an

independent expert in order to confirm a test upon which an expert concludes that the established father is not the biological father of the child.

f. The court finds all of the following:

(1) That the conclusion of the expert as disclosed by the evidence based upon blood or genetic testing demonstrates that the established father is not the biological father of the child.

(2) If paternity was established pursuant to [section 252A.3A](#), the signed affidavit was based on fraud, duress, or material mistake of fact, as shown by the petitioner.

4. Establishment of paternity may be overcome under [this section](#) by a juvenile court pursuant to [section 232.3A](#) if all of the following conditions are met:

a. Paternity of a child is contested during an active child in need of assistance proceeding and the child is under the jurisdiction of the juvenile court at the time an order overcoming paternity is entered.

b. A guardian ad litem is appointed for the child.

c. Notice of the action to overcome paternity is served on any parent of the child in accordance with [chapter 232](#) and if enforcement services are being provided by child support services pursuant to [chapter 252B](#), notice shall also be served on child support services.

d. Blood or genetic testing is conducted in accordance with [sections 232.3A](#) and [600B.41](#).

(1) Unless otherwise specified pursuant to [subsection 2 or 10](#), blood or genetic testing shall be conducted in an action to overcome the establishment of paternity in the child in need of assistance proceeding.

(2) Unless otherwise specified in [this section](#), [section 600B.41](#) applies to blood or genetic testing conducted as the result of an action brought to overcome paternity.

(3) The juvenile court may order additional testing to be conducted by the expert or an independent expert in order to confirm a test upon which an expert concludes that the established father is not the biological father of the child.

e. The juvenile court finds all of the following, as applicable:

(1) That the conclusion of the expert as disclosed by the evidence based upon blood or genetic testing demonstrates that the established father is not the biological father of the child.

(2) If paternity was established pursuant to [section 252A.3A](#), the signed affidavit was based on fraud, duress, or material mistake of fact.

(3) The established father agrees that his paternity should be overcome or the juvenile court finds it is in the best interest of the child that the established father's paternity be overcome despite the established father's objection.

5. If the court finds that the establishment of paternity is overcome, in accordance with all of the conditions prescribed under [subsection 3 or 4](#), the court shall enter an order which provides all of the following:

a. That the established father is relieved of any and all future support obligations owed on behalf of the child from the date that the order determining that the established father is not the biological father is filed.

b. That any unpaid support due prior to the date the order determining that the established father is not the biological father is filed, is satisfied.

6. An action brought under [this section](#) shall be heard and decided by the court, and shall not be subject to a jury trial.

7. a. If the court determines that test results conducted in accordance with [section 600B.41](#) or [chapter 252F](#) exclude the established father as the biological father, the court may dismiss the action to overcome paternity and preserve the paternity determination only if all of the following apply:

(1) The established father requests that paternity be preserved and that the parent-child relationship, as defined in [section 600A.2](#), be continued.

(2) The court finds that it is in the best interest of the child to preserve paternity. In determining the best interest of the child, the court shall consider all of the following:

(a) The age of the child.

(b) The length of time since the establishment of paternity.

(c) The previous relationship between the child and the established father, including but

not limited to the duration and frequency of any time periods during which the child and established father resided in the same household or engaged in a parent-child relationship as defined in [section 600A.2](#).

(d) The possibility that the child could benefit by establishing the child's actual paternity.

(e) Additional factors which the court determines are relevant to the individual situation.

(3) The biological father is a party to the action and does not object to termination of the biological father's parental rights, or the established father petitions the court for termination of the biological father's parental rights and the court grants the petition pursuant to [chapter 600A](#).

b. If the court dismisses the action to overcome paternity and preserves the paternity determination under [this subsection](#), the court shall enter an order establishing that the parent-child relationship exists between the established father and the child, and including establishment of a support obligation pursuant to [section 598.21B](#) and provision of custody and visitation pursuant to [section 598.41](#).

8. a. For any order entered under [this section](#) on or before May 21, 1997, in which the court's determination excludes the established father as the biological father but dismisses the action to overcome paternity and preserves paternity, the established father may petition the court to issue an order which provides all of the following:

(1) That the parental rights of the established father are terminated.

(2) That the established father is relieved of any and all future support obligations owed on behalf of the child from the date the order under [this subsection](#) is filed.

b. The established father may proceed pro se under [this subsection](#). The supreme court shall prescribe standard forms for use under [this subsection](#) and shall distribute the forms to the clerks of the district court.

c. If a petition is filed pursuant to [this section](#) and notice is served on any parent of the child not filing the petition and any assignee of the support obligation, the court shall grant the petition.

9. The costs of testing, the fee of the guardian ad litem, and all court costs shall be paid by the person bringing the action to overcome paternity.

10. [This section](#) shall not be construed as a basis for termination of an adoption decree or for discharging the obligation of an adoptive father to an adoptive child pursuant to [section 600B.5](#).

11. Unless specifically addressed in an order entered pursuant to [this section](#), provisions previously established by the court order regarding custody or visitation of the child are unaffected by an action brought under [this section](#).

12. Participation of child support services created in [section 252B.2](#) in an action brought under [this section](#) shall be limited as follows:

a. Child support services shall only participate in actions if services are being provided by child support services pursuant to [chapter 252B](#).

b. When services are being provided by child support services under [chapter 252B](#), child support services may enter an administrative order for blood and genetic tests pursuant to [chapter 252F](#).

c. Child support services is not responsible for or required to provide for or assist in obtaining blood or genetic tests in any case in which services are not being provided by child support services.

d. Child support services is not responsible for the costs of blood or genetic testing conducted pursuant to an action brought under [this section](#).

e. Pursuant to [section 252B.7, subsection 4](#), an attorney employed by child support services represents the state in any action under [this section](#). Child support services' attorney is not the legal representative of the mother, the established father, or the child in any action brought under [this section](#).

94 Acts, ch 1171, §48, 52; 97 Acts, ch 175, §212 – 216, 218, 219, 221; 98 Acts, ch 1074, §32; 2005 Acts, ch 69, §57; 2015 Acts, ch 110, §116; 2023 Acts, ch 19, §1261, 1262, 1358; 2023 Acts, ch 123, §10 – 12

Referred to in §232.3A, 252A.6A, 252C.4, 598.21E, 600B.41, 602.6306

Subsection 1 amended

Subsection 3, paragraph c, subparagraph (1) amended

NEW subsection 4 and former subsections 4 – 11 renumbered as 5 – 12
Subsection 5, unnumbered paragraph 1 amended
Subsection 12 amended